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REMARKS

Applicant acknowledges the Examiner's statements regarding the priority and benefit of the earlier filing date under 35 U.S.C. 119(e) and 120, as well as the withdrawal of the earlier rejection under 35 U.S.C. 112.

Turning now to the specific rejection in the present Office Action under 35 U.S.C. 103(a), it is firstly beneficial to set forth several key features and distinctions of the present invention, as specifically recited in the presently amended claims. Support for the present amendments to the claims may be found, *inter alia*, at page 19 line 13 through page 20 line 13, and page 26 line 16 through page 28 line 3 of the specification as filed, including the express incorporation of Provisional Application No. 60/161,694 on page 27.

The present invention is directed to a system and method for long term archiving and retrieving specifically selected samples. The storage medium is only an element of the invention. Users of the system and method are enabled to select specific samples, which samples may have been originally collected and placed into the archive even years prior by unassociated parties. The invention allows for the obtaining of a collection of sample portions, while allowing remaining sample portions to be maintained in the repository for later requestors. Thus actual sample portions, not just data from previous testing, are made available to requestors. Through the practice of the invention and the selective obtaining of samples, analytical testing of the selected sample portions may thereafter be carried out.

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Sample archival and repository is distinct from testing services. In contrast to present invention and the claims in the present application, Layne (5,841,975) describes a system and method for performing single testing on submitted hazardous blood samples. The liquid samples in Layne are described as "stored" but only in a temporary fashion, and no provision for multiple use or long term storage is taught by Layne.

Specifically, In the Office Action it is stated that Layne describes "submission and storage of biological test specimens". Review of Layne in detail concludes the specimens for analytical testing may be "stored" in generic storage element 104, but it is made clear by the teaching of Layne it is a one time use, and moreover, specimens are discarded as waste 108 following single use tests. (see Layne Fig. 4; and col. 8 line 44; and col. 9 line 16-17). This is clearly not operable as an automated archive of selectable sample portions in a multi-use manner, as required by the present claims.

In the Office Action it is stated Layne teaches a process control tools which allows researchers to provide background information regarding the biological samples. However, such annotation is not for the purpose of selecting samples from an archive as required by the present claims. Layne teaches that data is made available to subsequent users, following tests on submitted specimens. (see Layne Fig. 11 elements 316, 318 and 320, and

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col. 4, lines 11-12, and col. 8 lines 19-20, and col. 10 line 10). The annotation and background information is not used for the selection of physical sample portions to be obtained, as required by the present claims.

Because *inter alia* Layne is directed to the submission of samples by users for single use testing, Layne does not suggest or describe to one skilled in the art the remote accessing, selection and obtaining of actual sample portions, and Layne does not teach or suggest the critical feature of maintenance of remaining sample portions in the long term archive for later use by another, as recited by the present claims.

Layne does not disclose or suggest the embodiments of the presently claimed invention which are directed to the assembly and delivery of an ordered assembly of sample portions, while maintaining remaining sample portions in the archive for later use, as expressly recited in present Claim 77. The system and process described in Layne plainly is for the purpose of performing analytical tests upon a submitted biologically hazardous sample, and thereafter storing the data.

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Layne does not teach or suggest the query of a plurality of separate sample archives by a remote requestor, and obtaining a plurality of sample portions from a plurality of archive locations, while maintaining remaining sample portions for later use, as expressly recited in Claims 67 and 68 of the present application.

In sum, Layne does not disclose or suggest an automated archive repository system combining query and selection of corresponding medical information by a first requestor for subsequent retrieval and delivery of portions of archived stabilized samples, while maintaining remaining sample portions of the same sample for later use. Clearly the testing system of Layne would not be operable as such a sample storage archive.

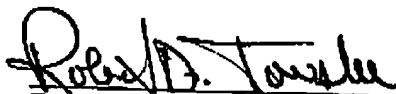
Burgoyne (5,807,527) does not add to the deficiencies of Layne in reaching or obviating the present invention. Burgoyne describes a solid paper medium for storage of DNA, and is directed to the DNA-immobilizing aspects of such a medium. However, Burgoyne does not fill in the deficiencies of Layne in meeting the expressly recited elements and features of present invention as claimed.

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Thus, it is respectfully stated it would not have been obvious at the time the invention was made to use the storage media of Burgoyne in the system and method of Layne. Even if solid media were used in the testing services taught by Layne, the combination of Layne and Burgoyne would not describe or suggest an automated archive, wherein *inter alia* a database is queried by a first requestor, and thereafter select sample portions are retrieved and remaining sample portions are maintained in the archive for later use by other requestors. These and other specific recitations in the amended claims have important distinction over the cited references and any prior art of record. It is respectfully asserted these specifically recited elements render the present claims patentable.

If the Examiner believes that a telephone conference with the undersigned would expedite passage of the present claims and patent application to allowance and issue, they are cordially invited to call the undersigned at the number below.

Respectfully submitted,


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